



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 220325-0078; RTID 0648-XC494]

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Closure of the Closed Area I Scallop Access Area to General Category Individual Fishing Quota Scallop Vessels

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces that the Closed Area I Scallop Access Area is closed to Limited Access General Category Individual Fishing Quota scallop vessels for the remainder of the 2022 fishing year. Regulations require this action once it is projected that 100 percent of trips allocated to the Limited Access General Category Individual Fishing Quota scallop vessels for the Closed Area I Scallop Access Area will be taken. This action is intended to prevent the number of trips in the Closed Area I Scallop Access Area from exceeding what is allowed under the Atlantic Sea Scallop Fishery Management Plan.

DATES: Effective 0001 hr local time, January 14, 2023, through March 31, 2023.

FOR FURTHER INFORMATION CONTACT: Louis Forristall, Fishery Management Specialist, (978) 281-9321.

SUPPLEMENTARY INFORMATION: Regulations governing fishing activity in the Sea Scallop Access Areas can be found in 50 CFR 648.59 and 648.60. These regulations authorize vessels issued a valid Limited Access General Category (LAGC) Individual Fishing Quota (IFQ) scallop permit to fish in the Closed Area I Scallop Access Area

under specific conditions, including a total of 714 trips that may be taken during the 2022 fishing year. Section 648.59(g)(3)(iii) requires NMFS to close the Closed Area I Scallop Access Area to LAGC IFQ permitted vessels for the remainder of the fishing year once it determines that the allocated number of trips for the fishing year are projected to be taken.

Based on trip declarations by LAGC IFQ scallop vessels fishing in the Closed Area I Scallop Access Area, analysis of fishing effort, and other information, NMFS projects that 714 trips will be taken as of January 14, 2023. Therefore, in accordance with § 648.59(g)(3)(iii), NMFS is closing the Closed Area I Scallop Access Area to all LAGC IFQ scallop vessels as of January 14, 2023. No vessel issued an LAGC IFQ permit may fish for, possess, or land scallops in or from the Closed Area I Scallop Access Area after 0001 hr local time, January 14, 2023. Any LAGC IFQ vessel that has declared into the Closed Area I Access Area scallop fishery, complied with all trip notification and observer requirements, and crossed the Vessel Monitoring System demarcation line on the way to the area before 0001 hr, January 14, 2023, may complete its trip without being subject to this closure. This closure is in effect for the remainder of the 2022 scallop fishing year, through March 31, 2023.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act. This action is required by 50 CFR part 648, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. The Closed Area I Scallop Access Area opened for the 2022 fishing year on April 1, 2022. The regulations at § 648.59(g)(3)(iii)

require this closure to ensure that LAGC IFQ scallop vessels do not take more than their allocated number of trips in the area. The projected date on which the LAGC IFQ fleet will have taken all of its allocated trips in an Access Area becomes apparent only as trips into the area occur on a real-time basis and as activity trends begin to appear. As a result, NMFS can only make an accurate projection very close in time to when the fleet has taken all of its trips. To allow LAGC IFQ scallop vessels to continue to take trips in the Closed Area I Scallop Access Area during the period necessary to publish and receive comments on a proposed rule would likely result in the vessels taking much more than the allowed number of trips in the Closed Area I Scallop Access Area. Excessive trips and harvest from the Closed Area I Scallop Access Area would result in excessive fishing effort in the area, where effort controls are critical, thereby undermining conservation objectives of the Atlantic Sea Scallop Fishery Management Plan and requiring more restrictive future management measures. Also, the public had prior notice and full opportunity to comment on this closure process when it was enacted, as well as during the public comment period on the action to set specifications for the 2022 fishing year. For these same reasons, NMFS further finds, under 5 U.S.C 553(d)(3), good cause to waive the 30-day delayed effectiveness period.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 13, 2023.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.